

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRACYE BENARD WASHINGTON,
Plaintiff,

v.

J. SERRATO, et al.,
Defendants.

Case No. 22-cv-05832 BLF (PR)

**ORDER GRANTING SPECIALLY
APPEARING DEFENDANTS'
NOTICE OF MOTION AND
ADMINISTRATIVE MOTION *NUNC
PRO TUNC* TO CHANGE
DEADLINE; RESETTING
BRIEFING SCHEDULE; DENYING
MOTION FOR DEFAULT
JUDGMENT**

(Docket Nos. 10, 11)

Plaintiff, a California inmate, filed the instant *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against prison staff at Salinas Valley State Prison (“SVSP”) where he was formerly housed. Dkt. No. 1-1. On May 3, 2023, the Court dismissed some claims and ordered service of the cognizable claims on Defendants, under the California Department of Corrections and Rehabilitation’s (“CDCR”) e-service program for civil rights cases from prisoners in CDCR custody. Dkt. No. 9 at 3. The CDCR was to provide the Court with a completed CDCR Report of e-service within 40 days after service of the order via email, and Defendants were to file a motion for summary judgment or other dispositive motion within 91 days. *Id.* at 3-4.

On August 22, 2023, Defendants made a special appearance to move *nunc pro tunc* under Northern District Local Rules 6-3 and 7-11 to change the time to file a response to Court’s E-service Waiver. Dkt. No. 11. It appears that the e-service waiver was not sent

as ordered, and therefore Defendants were unaware of this action. Dkt. No. 11-1 at 2. Defendants also request that the dispositive motion deadline be rescheduled. *Id.*

Good cause appearing, the motion is GRANTED. This matter shall proceed in accordance with the schedule set forth below.

In light of the fact Defendants were never served, Plaintiff's motion for default judgment is DENIED. Dkt. No. 10.

CONCLUSION

For the foregoing reasons, the Court orders as follows:

1. Defendants' motion to change the deadline to respond to the Court's e-service waiver is **GRANTED**. Dkt. No. 11. The deadline for the CDCR to file a notice of intent as to potential waiver of service, as to each defendant listed on the Court's Order of Partial Dismissal and of Service, Dkt. No. 9, is extended for **40 days** from the date this order is filed.

2. No later than **ninety-one (91) days** from the date this order is filed, Defendants shall file a motion for summary judgment or other dispositive motion with respect to the claims in the complaint found to be cognizable in the Court's Order of Partial Dismissal and of Service, Dkt. No. 9. All other provisions of the last court order, Dkt. No. 9, shall remain in effect.

3. Plaintiff's motion for default judgment is **DENIED**. Dkt. No. 10.

This order terminates Docket Nos. 10 and 11.

IT IS SO ORDERED.

Dated: August 24, 2023


BETH LABSON FREEMAN
United States District Judge